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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2015

CORAM :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Appeal (MD) No.1114 of 2015

1.The Employment Officer,
District Employment Officer,
Karur, Karur District.

2.The Commissioner/Director,
Animal Husbandry and Veterinary Services,
Chennai 6.

3.The Secretary,
Animal Husbandry Department,
Government of Tamil Nadu,
Fort St., George,
Chennai 9.

... Appellants

Vs.

Mathi

... Respondent

Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 29.04.2015 made in W.P.(MD)No.3296 of 2013 on the file of this Court.

WP (MD) No.3296 of 2013 :-

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling for the records pertaining to the Government Order in G.O.Ms.No.10 Animal Husbandry, Dairying and Fisheries (AH.1) Department dated 27.01.2012 and the consequential proceedings calling for candidates from the first respondent for Livestock Inspector's Training for the current year and quash the same directing the respondents to consider the candidature of the petitioner for the selection for Livestock Inspector's Training.

For Appellants

: Mr.K.Chellapandian, AAG,
assisted by Mr.A.K.Baskarapandian,
Special Government Pleader.

For Respondent

: Mr.V.Kannan

**JUDGMENT**

(Judgment of the Court was delivered by **V. RAMASUBRAMANIAN, J**)

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This appeal is by the State, challenging an order passed by the Judge allowing the writ petition filed by the respondent herein.

2. Heard Mr.K.Chellapandian, learned Additional Advocate General for the appellants. Mr.V.Kannan, learned counsel takes notice for the respondent.

3.The Government issued G.O.Ms.No.10, Animal Husbandry and Fisheries (AH.1) Department, dated 27.01.2012 permitting the Commissioner of Animal Husbandry and Veterinary Services to conduct Livestock Inspector Training for 350 candidates for the year 2011-2012 as per the norms stipulated in earlier orders. As per those norms, a Committee had to be constituted for the selection of candidates through Employment Exchange.

4.Challenging the said Government Order, the respondent herein came up with a writ petition contending that selection of candidates by inviting candidates only from the rolls of the employment exchange alone, cannot be the proper method of selection as held by the Supreme Court in ***Excise Superintendent Malkapatnam, Krishna District, Andhra Pradesh Vs.K.B.N.Visweshwara Roa and others (1996 (6) SCC 216)***.

5.Accepting the said contention, the learned Judge allowed the writ petition filed by the respondent by an order dated 29.04.2015. Aggrieved by the said order, the State is on appeal.

6.The legal position as expounded by the learned Judge is accepted by the appellants on principle. But the only reason why the State has come up with the above appeal is that the order impugned in the writ petition was issued on 27.01.2012 and that pursuant to the said order 350 candidates, whose names were sponsored by the Employment Exchange were selected for training. After training, they have also been appointed. By the time Government Order in G.O.Ms.No.10, Animal Husbandry and Fisheries (AH.1) Department, dated 27.01.2012 was set aside by the learned Judge, the selected candidates have already joined service. Therefore, the grievance of the appellants is only of a limited nature.

7.Insofar as the respondent is concerned, it is stated by Mr.V.Kannan, learned counsel for the respondent that after the judgment of the learned Judge, the Government had accepted the position and started advertising in newspapers inviting applications from the open market. Therefore, learned counsel for the respondent submits that for all future selections the Government itself have started following the principle of law enunciated in the judgment of the learned Judge.

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8.Mr.K.Chellapandian, learned Additional Advocate General appearing for the appellants submits that after the judgment of the



learned Judge, the Government had started following the practice of inviting the list of candidates from the Employment Exchange and also making paper publication inviting applications from the open market. The Government has no difficulty in following the same practice in future. But only insofar as the recruitment that took place in 2012, 350 persons cannot now be sent out.

9. Considering the limited nature of the grievance and also considering the fact that there was no interim stay of G.O.Ms.No.10, Animal Husbandry and Fisheries (AH.1) Department, dated 27.01.2012 during the pendency of the writ petition, we are of the view that the order of the learned Judge could be modified to a limited extent so that persons who are already appointed pursuant to the order impugned in the writ petition need not be disturbed as they were also not parties before the learned Judge.

10. In view of the above, the writ appeal is disposed of confirming the order of the learned Judge on principle but clarifying that those appointed pursuant to G.O.Ms.No.10, Animal Husbandry and Fisheries (AH.1) Department, dated 27.01.2012 shall not be disturbed. No costs. Consequently, M.P(MD)No.2 of 2015 is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The Employment Officer,
District Employment Officer, Karur, Karur District.
2. The Commissioner/Director,
Animal Husbandry and Veterinary Services, Chennai 6.
3. The Secretary,
Animal Husbandry Department, Government of Tamil Nadu,
Fort St., George, Chennai 9.

+1cc to Mr.V.Kannan, Advocate Sr.No.64474

+1cc to The Special Government Pleader Sr.No.64794

akm/16.11.2015 /3p-6c/